

**CHARTER TOWNSHIP OF DELTA**  
Public Meeting Room B  
Delta Township Administration Building  
7710 West Saginaw Highway  
Lansing MI 48917

**TOWNSHIP BOARD COMMITTEE OF THE WHOLE MINUTES**  
**MONDAY, OCTOBER 14, 2013**

**I. CALL TO ORDER –**

Supervisor Fletcher called the meeting to order at 6:00 p.m.

**II. ROLL CALL –**

Members Present: Supervisor Kenneth Fletcher, Treasurer Howard Pizzo, Clerk Mary Clark, and Trustees Jeff Hicks, Dennis Fedewa, Karen Mojica.

Members Absent: Trustee R. Douglas Kosinski

Others Present: Township Manager Richard Watkins, Deputy Manager Jen Roberts, Assistant Community Development Director Gary Bozek, Lieutenant Jeff Campbell, Attorney Gordon VanWieren and associates.

TRUSTEE FEDEWA MOVED TO EXCUSE TRUSTEE KOSINSKI.  
TREASURER PIZZO SUPPORTED THE MOTION.

THE MOTION PASSED 6-0.

**III. SET/ADJUST AGENDA –**

TREASURER PIZZO MOVED TO APPROVE THE AGENDA AS PRESENTED.  
TRUSTEE MOJICA SUPPORTED THE MOTION.

THE MOTION PASSED 6-0.

**IV. PUBLIC COMMENT –**

The following people spoke regarding the Non-Discrimination Ordinance:

Cheryl Overley residing at 4910 Grandwoods Dr., Lansing, MI, 48917, Joe Jackson residing at 1527 S. Canal Rd., Lansing, MI, 48917, Kathleen Lopilato employed at 6101 Anacapri, Lansing, MI, Linda Gruizenga residing at 7824 Bramblewood, Lansing, MI, Dave Kallman residing at 5600 W. Mt. Hope Hwy., Lansing, MI, 48917 and Katherine Schmidt residing at 221 N. Church St., Pottersville, MI.

**V. MANAGER'S REPORT –**

- Regarding the water project in Huntington Acres, prep work is ongoing; completion is expected by November 1, 2013. Clerk Clark asked whether the outstanding payable to the company was sufficient to cover the fines being assessed for being out of contract and Manager Watkins confirmed.
- Regarding Mr. Charles Frendt's flood plain issue. The Township is drafting a letter to him notifying him that the Township is unable to participate in his project. There have been others that have file Letters of Map Amendments and the Township provides as much information as possible to prepare their appeal but have not and cannot provide funding. Treasurer Pizzo asked about some buildings the Township had in the flood plain and wondered the result. Manager Watkins stated that the Township did not file because the only thing the township had in the flood plain were tanks.
- Manager Watkins states he has been working with Tri-County Planning on Governor's Regional Prosperity Grants. The Township has decided to apply for a \$250,000 Regional Transportation Plan grant. Tri-county is putting the plan together and the application is due November 1, 2013.

Treasurer Pizzo noted that the minutes to the transportation committee are on the website, but did take up the complete streets ordinance. At the next meeting they will be reviewing a final draft before it comes to the Board.

## **VI. ITEMS OF DISCUSSION –**

### **1. Non-Discrimination Ordinance, Attorney Gordon VanWieren**

Mr. VanWieren introduced his associates Fredric Heidemann and Jessica Walker who researched many of the constitutional issues. Mr. VanWieren addressed Mr. Kallman's concerns of vagueness related to sexual orientation, gender identity expression and family responsibilities. In regard to the first two classifications, courts have previously upheld that these terms are not vague. In review of the Elliott Larson Act, it is believed that the phrase family responsibilities should be replaced with familial status. The recommendation found in Section 27-3 the definition for familial status is verbatim what the Elliott Larson Act states.

Regarding freedom of speech concerns, previous concerns were addressed language was added. Freedom of association concerns raised last week, were addressed and it is recommended that Section 27-2, the definition of place of public accommodation be amended by adding language.

The free exercise of religion was addressed by the various additions of language and broadening the definition of religious organization or institution. Also of note language was added; educational institutions affiliated with or controlled or managed by those houses of worship or with articles of incorporation and bylaws or other documents stating intent to and calculate the religious tenets of students.

The exemption language in Section 27-5 has been expanded to state that a business owner or employer still has the ability after a claim is made to show that it has a bona fide occupational qualification for the work in question.

Regarding Section 27-11a, the exemptions related to religious organizations or institutions can restrict access or use of any of its facilities. There is an exception where there can be a restriction of employment opportunities for officers, religious instructor's staff and clergy. Finally, there was added language – an exception to restrict membership or benefits of membership.

Mr. VanWieren next addressed the insurance industry concerns. Stating that clearly this ordinance is pre-empted by State Law – which does allow discrimination, however it does state that it cannot be unfair. Mr. VanWieren urges the Board to review the felony issue raised about Section 27-5 a6, which is in the Elliot Larson Act.

To the comment on 27-5 a1, regarding the verbiage Michigan or Federal Constitution. The intention wasn't that if there was a violation of one that the language had to be the same for both the state and federal.

Trustee Fedewa questioned if ordinance language would be pre-empted by state or federal law, why the Township would want to include it in the ordinance. Mr. VanWieren stated that if there is a situation where there is not a pre-emption issue with insurance, then the intent would be that it would be covered by the ordinance.

Trustee Hicks notes that there is a difference between lawful discrimination and unlawful discrimination. Further noting that under Section 27-5a1, he believes that this language must specify either "and" "or", not – and/or (as in current proposed version -Michigan and or Federal Law). That there is a current distinction between Federal and State case law on this issue.

Mr. VanWieren spoke regarding due process under the Complaint Review Committee. Language changes were made to Section 27-2, page 2 taking out "especially groups protected by this ordinance" under the citizens serving area. Also clarified that the Complaint Review Committee shall

remain an impartial decision maker and that any member shall abstain from participation if he or she has a conflict of interest.

Discussion ensued surrounding the process in which a committee member declares a conflict. All current Board, committee and commission members sign the Township Ethics Policy and within that is a process to declare a conflict of interest. It was suggested that this be incorporated into the Rules and Procedures as well as rules detailing when someone can recuse themselves from a vote. Mr. VanWieren will address these.

Mr. VanWieren addressed a statement made regarding Michigan Constitutional Amendment prohibiting same sex marriage, which he believes has been addressed by Section 27-5a. In regard to the bona fide occupational qualification exception – Mr. VanWieren states this exception is contained in other Non-Discrimination policies that his firm has reviewed and is a policy decision for the Board to determine inclusion of it in this ordinance.

Trustee Hicks (previously listed as Trustee Fedewa) referenced 27-11e questioned whether after the words “when such discrimination”.... the term is required by State or Federal or local law, if rather it should read permitted under State or Federal or local law. Mr. VanWieren suggested changing the language to say permitted or required.

Trustee Fedewa (previously listed as Trustee Hicks) referenced 27-12 regarding non-discrimination by Township contractors and questioned how far/to what jurisdictions does the ordinance reach, for instance to a sub-contractor that does not live in Delta Township or State and said sub-contractor is an employee and believes themselves to have been discriminated against. Mr. VanWieren stated that most contracts contain a non-discrimination clause within them and therefore the employer would be in violation of the contract as well as the Township Ordinance.

Trustee Hicks asked Mr. VanWieren to revisit the Michigan Court rules as it relates to the Circuit Court to ensure that the Township indicating appellate review is indeed in the Circuit Court. Because the Township is not an agency and that there is catalyst to get there, and it is not a zoning decision or a decision regulated under the Administrative Procedures Act, or any of the other specified appellate routes in the court rules itself. Mr. VanWieren stated that they would review that.

Trustee Fedewa noted in regard to the comment Mr. Kallman made regarding the ambiguity or absence of a schedule of violations. The language in the latest draft of the ordinance cites a schedule in Section 27-17c,1. Trustee Fedewa suggested inserting the schedule of fines within the ordinance. Mr. VanWieren stated inclusion of the fees is a

policy decision and that his suggestion is to keep those fines separate due to possible future changes to the schedule and publishing requirements. Supervisor Fletcher noted that currently there is a separate schedule of fees for all ordinances as policy. Manager Watkins stated that violations would be a Civil Infraction and is a progressive/tiered fine system ranging from \$50-\$400. Those fees are already contained in the current fee schedule. Trustee Fedewa suggested that the fines may be more effective as a deterrent if they mirrored that of the Elliott Larson Act (\$10,000-\$50,000) and are inserted in the statute. Manager Watkins noted that the fees can be updated via adopting resolution.

Trustee Hicks asked Mr. VanWieren to review Section 27-16 regarding the fee shifting portion of the recommendations. Trustee Hicks questioned whether the language “are limited, but not limited to” should be removed since the Board decided to all but eliminate equitable remedies. If that language is not removed, it leaves the decision to the discretion of the Complaint Review Committee.

Supervisor Fletcher asked whether the Board wants the bona fide occupational qualification exemption kept or removed – consensus was to keep it.

Trustee Hicks asked whether the rules set forth what needs to be met in order to prove a prima fascia case and that the rules and ordinance should be adopted together. Mr. VanWieren noted the ordinance does require prima fascia violation – if it determined then a hearing is conducted. Trustee Hicks asked what the threshold is for binding it over for a hearing. Mr. VanWieren stated he will review this.

Consensus was that the Board agreed with what was presented and wants the changes discussed to be incorporated.

Supervisor Fletcher noted that he received a legal memo regarding the Non-Discrimination Ordinance from the Michigan Law Professors and indicated that it had been addressed to all of the Board members, however he was distributing a copy now as well as sending an electronic version.

## **2. Age Friendly Communities (AARP, Gloria Kovnot & Karen Kafantaris)**

Supervisor Fletcher introduced Gloria Kovnot who is presenting information to help the Township ensure that it is an age friendly community. Ms. Kovnot sits on the Tri-County Office on Aging and represents Eaton County on the Advisory Board and introduced the interim Nutrition Director at TCOA – Ruth Powell.

Ms. Powell runs the Meals on Wheels program and thanked the Township for setting aside the donation of \$6,500 for next year. In 2011 355,000 meals were served, in 2012 405,000 and in 2013 more than 450,000 meals are expected to be served by Meals on Wheels.

Ms. Kovnot introduced the Director of Tri-County Office on Aging, Marianne Ellen. Ms. Kovnot introduced Karen Kafantaris, Associate State Director of the AARP.

Ms. Kafantaris stated that the demographic of the country and world is changing and that 10,000 baby boomers turn 65 every day – by 2030 there will be twice as many people over the age of 65 as today. The World Health Organization started a pilot project in which 35 cities from 22 countries worldwide participate – from which the WHO Age Friendly Communities program was developed. In 2012 AARP became an institutional affiliate with the WHO. There are 11 such affiliates and AARP is the only one for the U.S.

An age friendly community is defined as an environment that is inclusive, accessible and promotes active aging. It emphasizes enablement rather than disablement and is friendly for all ages not just age friendly.

Ms. Kafantaris stated that older adults are huge economic engines for communities. In 2011 they brought in \$37 Billion dollars to Michigan in terms of Social Security, Pension and personal savings. For every \$3 used in services by an older adult, they bring in \$4 to the community. They fuel the healthcare boom - \$18 Billion dollars came in from Medicare. Older adults are entrepreneurs more so than any other demographic. In 2010 the two largest startups in the Technology industry were started by people over 50. Volunteerism (unpaid work) translated to \$51 Billion and they provide civic engagement.

Ms. Kafantaris states that according to a Jacksonville State University professor of sociology older adults hold 77% of the countries personal assets – 80% of the countries savings deposits, 68% of all money market accounts, 50% of all corporate stocks, purchase 48% of all new domestic automobiles and 77% own their homes many above the average market value.

An age friendly community would be comprised of 8 different domains. The first 3 are under the built environment; outdoor spaces and buildings, transport and housing. The remaining 5 are under the social environment; community support & health services, communication and information, civic participation & employment and, respect & social inclusion and social participation.

Ms. Kafanaris stated the program is a lens through which to plan. The first step is the municipality must present the WHO and AARP with a letter of intent stating in year 1 a steering committee is formed and there will be an assessment of what the community already offers and what people's wants and needs are. In year 2 the municipality agrees to create a 3 year plan and create committees to focus on which ever domains are identified in a survey to determine areas of need. Year 3, 4 and 5 the plan is completed and during the 5<sup>th</sup> year a report is submitted to the WHO and AARP and an independent assessment is performed on how the community has done on the work. The municipality is then generally invited back to the program for another 5 year cycle.

The planning process should include elected officials, planners DOT, schools, older adults from the community and other entities that would or do enhance the domains listed. If the community is interested in becoming an Age Friendly Community, AARP brings the following; the ability to convene, engage, encourage, endorse and to some extent invest. There are currently 20 plus communities that are designated or have applied to become Age Friendly Collaborating Cities.

Treasurer Pizzo asked how the assessment process works. Ms. Kafantaris stated that there is a survey that the WHO and AARP can provide. AARP has the ability to perform surveys for a reasonable cost. Treasurer Pizzo also stated that Township staffing is currently sized to fit the current demands of those departments and may even be stretched at times to perform now. Ms. Kafantaris stated there does need to be someone to shepherd the process, but also can utilize volunteers from such places as MSU etc.

Trustee Hicks asked what the commitment on behalf of AARP. Ms. Kafantaris stated that the continuity is provided by the municipality however she stated that the Township would be able to utilize her especially since she is local, and technology based resources.

Trustee Mojica wondered if the municipality receives a rating after the 1<sup>st</sup> cycle of 5 years. Ms. Kafantaris stated that the municipality would be touted by the AARP as an Age Friendly Collaborating City.

Clerk Clark clarified that essentially in addition to the existing plans the Township has, the Age Friendly plan is a cycle of planning or perpetual. Ms. Kafantaris confirmed. Clerk Clark asked how the WHO and AARP collaborated. Ms. Kafantaris stated that in 2005 the WHO developed the framework.

Ms. Kovnot stated that she is from Maryland where they developed volunteer service plans to help the government because they only had one planner – utilizing area college students and newly retired residents.

Supervisor Fletcher thanked the presenters.

## **VII. ADJOURNMENT**

Supervisor Fletcher adjourned the meeting at 7:50 p.m.

CHARTER TOWNSHIP OF DELTA

MARY R. CLARK, CLERK

KENNETH FLETCHER, SUPERVISOR

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Board Materials\Board Meetings\Minutes\October 14, 2013 Committee of the Whole  
Minutes Approved: October 21, 2013